

§ 221.177

ADVICE TO PASSENGERS ON LIMITATIONS OF LIABILITY

Airline liability for death or personal injury may be limited by the Warsaw Convention and tariff provisions in the case of travel to or from a foreign country.

For most international travel (including domestic portions of international journeys) liability for loss, delay or damage to baggage is limited to approximately \$9.07 per pound for checked baggage and \$400 per passenger for unchecked baggage unless a higher value is declared and an extra charge is paid. Special rules may apply to valuable articles.

See the notice with your tickets or consult your airline or travel agent for further information.

Provided, however, That carriers may include in the notice the parenthetical phrase “(\$20.00 per kilo)” after the phrase “\$9.07 per pound” in referring to the baggage liability limitation for most international travel. Such statements shall be printed in bold-face type at least one-fourth of an inch high and shall be so located as to be clearly visible and clearly readable to the traveling public.

(b) Each air carrier and foreign air carrier which, to any extent, avails itself of limitations of liability for loss of, damage to, or delay in delivery of, baggage shall include on or with each ticket issued in the United States or in a foreign country by it or its authorized agent, the following notice printed in at least 10 point type:

NOTICE OF BAGGAGE LIABILITY LIMITATIONS

For most international travel (including domestic portions of international journeys) liability for loss, delay, or damage to baggage is limited to approximately \$9.07 per pound for checked baggage and \$400 per passenger for unchecked baggage unless a higher value is declared in advance and additional charges are paid. Excess valuation may not be declared on certain types of valuable articles. Carriers assume no liability for fragile or perishable articles. Further information may be obtained from the carrier.

Provided, however, That carriers may include in their ticket notice the parenthetical phrase “(\$20.00 per kilo)” after the phrase “\$9.07 per pound” in referring to the baggage liability limitation for most international travel.

(c) It shall be the responsibility of each carrier to ensure that travel agents authorized to sell air transportation for such carrier comply with the

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notice provisions of paragraphs (a) and (b), of this section.

(d) Any air carrier or foreign air carrier subject to the provisions of this section which wishes to use a notice of limited liability for baggage of its own wording, but containing the substance of the language prescribed in paragraphs (a) and (b) of this section may substitute a notice of its own wording upon approval by the Board.

(e) The requirements as to time and method of delivery of the notice (including the size of type) specified in paragraphs (a) and (b) of this section and the requirement with respect to travel agents specified in paragraph (c) may be waived by the Board upon application and showing by the carrier that special and unusual circumstances render the enforcement of the regulations impractical and unduly burdensome and that adequate alternative means of giving notice are employed.

(f) Applications for relief under paragraphs (d) and (e) of this section shall be filed with the Board (Attention: Assistant Director, Bureau of Pricing and Domestic Aviation, Legal Analysis Division) not later than 15 days before the date on which such relief is requested to become effective.

(g) Notwithstanding any other provisions of this section, no air taxi operator subject to part 298 of this subchapter shall be required to give the notices prescribed in this section, either in its capacity as an air carrier or in its capacity as an agent for an air carrier or foreign air carrier.

[ER-708, 36 FR 22229, Nov. 23, 1971, as amended by ER-995, 42 FR 20459, Apr. 20, 1977; ER-1119, 44 FR 25627, May 2, 1979; ER-1310, 48 FR 227, Jan. 4, 1983; 48 FR 3585, Jan. 26, 1983; ER-1390, 49 FR 40005, Oct. 12, 1984]

§ 221.177 Alternative notice of tariff terms.

(a) *Terms incorporated in the contract of carriage.* (1) A ticket, airwaybill, or other written instrument that embodies the contract of carriage for foreign air transportation shall contain or be accompanied by notice to the passenger, shipper, or consignee as required in paragraphs (b) and (d) of this section.

(2) Each carrier shall make the full text of all terms that are incorporated

in a contract of carriage readily available for public inspection at each airport or other ticket/cargo sales office of the carrier: *Provided*, That the medium, *i.e.*, printed or electronic, in which the incorporated terms and conditions are made available to the consumer shall be at the discretion of the carrier.

(3) Each carrier shall display continuously in a conspicuous public place at each airport or other ticket/cargo sales office of the carrier a notice printed in large type reading as follows:

EXPLANATION OF CONTRACT TERMS

All passenger (and/or cargo as applicable) contract terms incorporated by law to which this company is a party are available in this office. These provisions may be inspected by any person upon request and for any reason. The employees of this office will lend assistance in securing information, and explaining any terms.

In addition, a file of all tariffs of this company, with indexes thereof, from which the incorporated contract terms are obtained is maintained and kept available for public inspection at _____. (Here indicate the place or places where tariff files are maintained, including the street address and, where appropriate, the room number.)

(4) Each carrier shall provide to the passenger, shipper or consignee a complete copy of the text of any/all terms and conditions applicable to the contract of carriage, free of charge, immediately, if feasible, or otherwise promptly by mail or other delivery service, upon request at any airport or other ticket/cargo sales office of the carrier. In addition, all other locations where the carrier's tickets or airwaybills may be issued shall have available at all times, free of charge, information sufficient to enable the passenger, shipper or consignee to request a copy of such term(s).

(b) *Notice of incorporated terms.* Each carrier and ticket agent shall include on or with a ticket, airwaybill or other written instrument given to the passenger, shipper, or consignee, that embodies the contract of carriage, a conspicuous notice that:

(1) The contract of carriage may incorporate by law terms and conditions filed in public tariffs with U.S. authorities; passengers, shippers and consignees may inspect the full text of

each applicable incorporated term at any of the carrier's airport locations or other ticket/cargo sales offices of the carrier; and passengers, shippers and consignees have the right to receive, upon request at any airport or other ticket/cargo sales office of the carrier, a free copy of the full text of any/all such terms by mail or other delivery service;

(2) The incorporated terms may include, among others, the terms shown in paragraphs (b)(2) (i) through (v) of this section. Passengers may obtain a concise and immediate explanation of the terms shown in paragraphs (b)(2) (i) through (v) of this section from any location where the carrier's tickets are sold, and a shipper or consignee may obtain the same information at any location where an airwaybill or any similar document may be issued:

(i) Limits on the carrier's liability for personal injury or death of passengers (subject to §221.175), and for loss, damage, or delay of goods and baggage, including fragile or perishable goods.

(ii) Claim restrictions, including time periods within which passengers, shippers, or consignees must file a claim or bring an action against the carrier for its acts or omissions or those of its agents.

(iii) Rights of the carrier to change the terms of the contract. (Rights to change the price, however, are governed by paragraph (d) of this section).

(iv) Rules about re-confirmations or reservations, check-in times, and refusal to carry.

(v) Rights of the carrier and limitations concerning delay or failure to perform service, including schedule changes, substitution of alternate carrier or aircraft, and rerouting.

(3) The salient features of any applicable terms that restrict refunds of the transportation price, impose monetary penalties on passengers, shippers or consignees, or permit a carrier to raise the price, are also being provided on or with the ticket.

(c) *Explanation of incorporated terms.* Each carrier shall ensure that any passenger, shipper, or consignee can obtain from any location where its tickets are sold, or airwaybills or any similar documents are issued, a concise and

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immediate explanation of any term incorporated concerning the subjects listed in paragraph (b)(2) or identified in paragraph (d) of this section.

(d) *Direct notice of certain terms.* A passenger, shipper or consignee must receive conspicuous written notice, on or with the ticket, airwaybill, or other similar document, of the salient features of any terms that (1) restrict refunds of the price of the transportation, (2) impose monetary penalties on passengers, shippers, or consignees, or (3) permit a carrier to raise the price: *Provided*, That the notice specified in paragraph (d)(3) of this section is not required where a passenger ticket is sold pursuant to an effective tariff rule which provides that the terms and conditions of the contract of carriage, including the price of the ticket, are not subject to any future adjustment during the validity of the ticket, or the ticket is sold for transportation commencing on the same day.

[53 FR 52677, Dec. 29, 1988]

§ 221.178 [Reserved]

§ 221.179 Transmission of tariff filings to subscribers.

(a) Each carrier required to file tariffs in accordance with this part shall make available to any person so requesting a subscription service as described in paragraph (b) of this section separately for its passenger tariffs and its freight tariffs issued by it or by a publishing agent on its behalf.

(b) Under the required subscription service one copy of each new tariff, supplement, and loose-leaf page, including the justification required by § 221.165, must be transmitted to each subscriber thereto by first-class mail (or other equivalent means agreed upon by the subscriber) not later than one day following the time the copies for official filing are transmitted to the Board. The subscription service described herein shall not preclude the offering of additional types of subscription services by carriers or their agents.

(c) The carriers or their publishing agents at their option may establish a charge for providing the required subscription service to subscribers: *Provided*, That the charge may not exceed

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a reasonable estimate of the added cost of providing the service.

(Secs. 102, 204, 403, and 416 of the Federal Aviation Act of 1958, as amended by Pub. L. 95–504, 72 Stat. 740, 743, 758, and 771, 92 Stat. 1731, 1732; 49 U.S.C. 1302, 1324, 1373, and 1386)

[ER–1001, 42 FR 28877, June 6, 1977, as amended by ER–1125, 44 FR 33059, June 8, 1979]

Subpart O—Rejection of Tariff Publications

§ 221.180 Board's authority to reject.

Under the terms of section 403(a) of the act, the Board is empowered to reject any tariff publication which is not consistent with section 403 of the act or with the regulations in this part.

§ 221.181 Notification of rejection.

When a tariff publication is rejected, the issuing carrier or agent thereof will be notified in writing that the publication is rejected and of the reason for such rejection. The rejected publication will not be returned to the issuing carrier or issuing agent.

§ 221.182 Rejected publication is void and must not be used.

A tariff publication rejected by the Board is void and is without any force or effect whatsoever. Such rejected tariff publication must not be used.

§ 221.183 Tariff publication issued in lieu of rejected publication.

When a publication is rejected by the Board, the number which it bears must not be again used. Such publication must not thereafter be referred to as canceled or amended but a publication that is issued in lieu of such rejected publication shall bear the following notation (to be shown in the manner described in paragraphs (a), (b), and (c) of this section):

(Issued in lieu of _____ rejected by C.A.B.) (Show number of rejected publication)

(a) If the rejected publication is a tariff, the tariff which is issued in lieu thereof shall show the above required notation under its C.A.B. number on the title page in the manner shown in the following example: